

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NADINE LEACH,

Plaintiff,

-against-

THE CITY OF NEW YORK and POLICE OFFICER  
BENNETT,

Defendants.

**ANSWER TO COMPLAINT  
FOR DEFENDANT CITY OF  
NEW YORK**

08 CV 3249 (LTS)

JURY TRIAL DEMANDED  
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Defendant City of New York ("City"), by its attorney Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully alleges, upon information and belief, as follows:<sup>1</sup>

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits that plaintiff purports to bring this action and to invoke the pendant jurisdiction of the court as stated therein.

2. Denies the allegations set forth in paragraph "2" of the complaint, except admits that plaintiff purports to invoke the jurisdiction and pendant jurisdiction of this Court as stated therein.

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "3" of the complaint.

4. Admits the allegations set forth in paragraph "4" of the complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the complaint.

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<sup>1</sup> On information and belief, the individual identified in the caption of the complaint as "Police Officer Bennett" has not yet been served with the summons and complaint in this action and, therefore, is not yet a defendant in this case.

6. Denies the allegations set forth in paragraph “6” of the complaint, except admits that on or about June 19, 2007, at approximately 9:00 p.m., plaintiff was in the vicinity of 84 Herkimer Street, Brooklyn, New York.

7. Denies the allegations set forth in paragraph “7” of the complaint.

8. Denies the allegations set forth in paragraph “8” of the complaint, except admits that plaintiff was prosecuted under Kings County Criminal Court Docket Number 2007KN046343.

9. Admits the allegations set forth in paragraph “9” of the complaint.

10. Denies the allegations set forth in paragraph “10” of the complaint.

11. Denies the allegations set forth in paragraph “11” of the complaint.

12. Denies the allegations set forth in paragraph “12” of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

13. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

14. Defendant City has not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

15. At all times relevant to the acts alleged in the complaint, Defendant City of New York and its agents and officials acted reasonably in the proper and lawful exercise of their discretion. Therefore, Defendant City of New York is entitled to governmental immunity from liability.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

16. Any injury alleged to have been sustained resulted from plaintiff’s own culpable or negligent conduct and was not the proximate result of any act of defendant City.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

17. This action may be barred in, whole or in part, by the applicable statute of limitations.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

18. This action may be barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

19. Plaintiff has failed to comply with New York General Municipal Law §§ 50-e and 50-i.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE:**

20. There was probable cause for plaintiff's arrest, detention, and prosecution.

**AS AND FOR AN NINTH AFFIRMATIVE DEFENSE:**

21. To the extent the complaint alleges claims against the City of New York under state law, such claims are barred by the doctrines of immunity from judgmental errors in the exercise of governmental functions.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE:**

22. Punitive damages cannot be recovered from defendant City of New York.

**WHEREFORE,** defendant City requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
June 23, 2008

MICHAEL A. CARDOZO  
Corporation Counsel of  
the City of New York  
Attorney for Defendant City of New York  
100 Church Street  
New York, New York 10007  
(212) 788-1090

By:   
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ROBYN N. PULLIO (RP 7777)

To: VIA ECF  
Michael Colihan, Esq.  
Attorneys for Plaintiff  
44 Court Street, Suite 911  
Brooklyn, New York 11201

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**ANSWER TO COMPLAINT**

***MICHAEL A. CARDOZO***

*Corporation Counsel of the City of New York  
Attorney for Defendant City of New York*

*100 Church Street  
New York, N.Y. 10007  
Of Counsel: Robyn N. Pullio  
Tel: (212) 788-1090  
NYCLIS No. 2008-014088*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2008*

*..... Esq.*

*Attorney for City of New York*